

PROSECUTOR'S OFFICE
VICTIMS' ADVOCACY PROGRAM
DELINQUENT TAX COLLECTION



KENTON COUNTY COURTHOUSE
303 COURT STREET ROOM 307
COVINGTON, KY 41011

OFFICE OF
KENTON COUNTY ATTORNEY
GARRY L. EDMONDSON

June 14, 2013

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Mayor Covington, Kentucky
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Chuck Eilerman
Mildred Rains
Michelle Williams
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City of Covington
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Frank Warnock
Covington City Solicitor

City of Covington Solicitors Office
638 Madison Ave.
Covington, KY 41011

Gabrielle Summe
Kenton County Clerk
Chairman, Kenton County Board of Elections
303 Court Street
Covington, KY 41011

IN RE: MICHELLE WILLIAMS, COVINGTON COMMISSIONER

Dear Elected and Appointed Officials and Solicitor Warnock:

Among the many duties of the County Attorney in the Commonwealth of Kentucky is the responsibility of providing legal counsel to the County Board of Elections. Also as the people's attorney, the County Attorney has the duty to safeguard various public institutions and ensure that the obligations of the various public offices and officers throughout the county are maintained. In that capacity, it has been brought to my attention that Michelle Williams, who stood for and was elected as a City of Covington Commissioner in the last general election, may have occurred despite a prior history of criminal convictions in multiple states.

LEGAL AUTHORITY

Section 150 of the Kentucky Constitution states in part, "All persons shall be excluded from office who have been, or shall hereafter be, convicted of a felony, or of such high misdemeanor as may be prescribed by law...."

While the definition of a felony is well established under Kentucky law as any crime punishable by a term in prison of more than one (1) year, the Kentucky General Assembly has never undertaken the task of prescribing specifically what a "high misdemeanor" is. Because of that, the Courts have often referenced a more ancient phrase equating "high misdemeanor" as being a crime that involves "moral turpitude." Often, a crime involving moral turpitude was thought of as one immoral in itself, irrespective of the fact that it is punished by the law.

This view has been consistently applied in Kentucky and outside of the Commonwealth. As the United States Supreme Court noted in Jordan v. de George, 341 US 223, 232 (1951), "Whatever else the phrase 'crime involving moral turpitude' may mean in peripheral cases, the decided cases make it plain that crimes in which fraud was an ingredient have always been regarded as involving moral turpitude Thus a crime that contains an intent to fraud or deceive for personal gain" is treated as a crime of moral turpitude.

Attempting in Opinion of the Attorney General (OAG) 78-408 to better clarify the elusive, unwieldy legal phrase "moral turpitude," the Kentucky Attorney General cited the legal treatise American Jurisprudence, which defines "moral turpitude" as: "an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow men, or to society in general Moral turpitude implies something which is immoral in itself, without reference to any legal prohibition.... It is the inherent nature of the offense which is determinative, not the name given it by statute." 21 Am.Jur.2d Crim. Law § 24 (1965)

Some crimes implicate (and violate) this notion of moral turpitude, *per se*. This includes crimes involving a specific intent to defraud or intentional dishonesty for the purpose of personal gain, such as: embezzling money, In re Shumate, Ky., 382 S.W.2d 405 (1964); committing forgery, In re Rothrock, Ky., 406 S.W.2d 840 (1966); committing grand larceny (now codified as theft by unlawful taking), Kentucky State Bar Association v. Scott, Ky., 409 S.W. 2d 293 (1966); buying, receiving, and possessing stolen goods, In re Carroll, Ky., 406 S.W.2d 845 (1966); or receiving profits from use of public funds and accepting a bribe, Kentucky State Bar Association v. Howard, Ky., 437 S.W.2d 171 (1969).

Thus we are able to conclude, at the very least, that misdemeanors involving fraud or dishonesty can be equated to “misdemeanors involving moral turpitude,” and are thus “high misdemeanors” within the meaning of Section 150 of the Kentucky Constitution.

ANALYSIS OF MS. WILLIAMS’ CRIMINAL RECORD

As it relates to the criminal record of Michelle Williams, I have requested and been provided copies of public records from the Kenton District Court and Boone District Court in connection with my review of this matter. From that review, it is clear that Ms. Williams has been convicted of at least three (3) Class A misdemeanors, and one (1) Class B misdemeanor. As you may already know, in Kentucky misdemeanors are classified as either Class A or Class B, with Class A being the higher degree of crime and thus including greater penalties.

The Class A misdemeanor convictions in Ms. Williams’ criminal record specifically include Use/Possession of Drug Paraphernalia (Kenton District Court, 2010), Theft by Unlawful Taking (Boone District Court, 2008), and Assault in the Fourth Degree (Boone District Court, 2008). She was also convicted in Kenton District Court in 2009 for Disorderly Conduct in the Second Degree, a Class B misdemeanor.

It is my opinion Ms. Williams’ three (3) Class A misdemeanor convictions unquestionably involve the sort of “high misdemeanors” to which Section 150 of the Kentucky Constitution refers, in that each specifically implicates the traditional and historical understanding of “moral turpitude” discussed herein.

Additional National Crime Information Center (NCIC) records reveal that Ms. Williams has also appeared before a military General Court Martial where she was discharged for bad conduct from the military. In addition to her convictions in the Commonwealth of Kentucky, Ms. Williams appeared before a General Court Martial in Virginia for larceny (theft) of private property/funds, as well as larceny (theft) of U.S. Mail. While I do not have immediate access to certified military records regarding these crimes, I understand that as a result of these charges Ms. Williams was found guilty and was discharged for bad conduct in or about 1988.

It should be noted that military courts martial are typically reserved for the most serious of offenses, including specifically those crimes that would be considered felonies if they were tried in civilian courts.

CONCLUSION

Considering the multiple high misdemeanors of which Ms. Williams has been convicted here in the Commonwealth, the military bad conduct discharge, and her additional criminal history, it is my opinion in the capacity of Kenton County Attorney and advisor to the Kenton County Board of Elections the Kentucky Constitution does not permit Ms. Williams to continue to serve in her office as Covington Commissioner. Indeed, it is my opinion the office is vacated immediately as a matter of law. I further believe it is the duty of the Covington City Commission to appoint a replacement Commissioner, pursuant to statute for a vacated office, without delay.

Sincerely,

**Garry L. Edmondson
Kenton County Attorney**